

**CAMPBELL & WILLIAMS**  
J. COLBY WILLIAMS (Nev. Bar No. 5549)  
[jcw@cwlawlv.com](mailto:jcw@cwlawlv.com)  
710 South 7th Street  
Las Vegas, Nevada 89101  
Telephone: (702) 382-5222  
Facsimile: (702) 382-0540

**PAUL HASTINGS LLP**  
SUSAN LEADER (*admitted pro hac vice*)  
[susanleader@paulhastings.com](mailto:susanleader@paulhastings.com)  
ALI R. RABBANI (*admitted pro hac vice*)  
[alirabbani@paulhastings.com](mailto:alirabbani@paulhastings.com)  
STEPHANIE BALITZER (*admitted pro hac vice*)  
[stephaniebalitzer@paulhastings.com](mailto:stephaniebalitzer@paulhastings.com)  
1999 Avenue of the Stars  
Los Angeles, California 90067  
Telephone: (310) 620-5700  
Facsimile: (310) 620-5899

*Attorneys for Defendant Zuffa, LLC*

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

EVERETT BLOOM; JACK GRAHAM; and DAVE LINDHOLM, on behalf of themselves, and those similarly situated,

## Plaintiffs,

V.

ZUJFFA, LLC

**Defendant.**

CASE NO. 2:22-cv-00412-RFB-BNW

**DEFENDANT ZUFFA, LLC'S  
OBJECTIONS TO PLAINTIFFS'  
DISCLOSURE OF WITNESSES AND  
EXHIBITS FOR EVIDENTIARY  
HEARING ON MOTION FOR CLASS  
CERTIFICATION**

PUBLIC REDACTED VERSION

1           Defendant Zuffa, LLC (“Zuffa”) submits the following evidentiary objections to Plaintiffs’  
 2 Disclosure of Witnesses and Exhibits for Evidentiary Hearing on Motion for Class Certification.

3           **I. ZUFFA’S OBJECTIONS**

4           **A. Testimony Offered By Plaintiffs’ Consulting Expert, Serge Egelman Ph.D.**

5           Zuffa objects to any testimony offered by Plaintiffs’ consulting expert, Serge Egelman,  
 6 Ph.D. (“Egelman”), at the evidentiary hearing on class certification. In Plaintiffs’ Disclosure of  
 7 Witnesses and Exhibits for the evidentiary hearing, Plaintiffs state that Egelman “will also attend  
 8 and be available to answer questions from the Court.” But Plaintiffs did not submit any opinions,  
 9 declarations, or reports from Egelman in support of their Motion for Class Certification (nor have  
 10 Plaintiffs made any expert disclosures for Egelman as required by Rule 26(a) of the Federal Rules  
 11 of Civil Procedure and the Scheduling Order in this action). Rather, Plaintiffs submitted two expert  
 12 reports from their *testifying* expert, Rebecca Herold. Accordingly, Zuffa has not had the  
 13 opportunity to depose or cross-examine Egelman during discovery, assess the scope or basis of his  
 14 opinions, determine whether rebuttal expert testimony was necessary, or file a *Daubert* motion to  
 15 challenge the admissibility of any purported expert opinions. Plaintiffs’ offer at the eleventh hour  
 16 to have Egelman testify at the evidentiary hearing (or “answer questions from the Court”) should  
 17 therefore be rejected as procedurally improper and fundamentally unfair to Zuffa. *See, e.g.*, Fed.  
 18 R. Civ. P. 37(c)(1) (Where a “a party fails to provide information or identify a witness as required  
 19 by Rule 26(a) ... the party is not allowed to use that information or witness to supply evidence on  
 20 a motion, at a hearing, or at a trial, unless the failure was substantially justified or is harmless.”);  
 21 *Zeiger v. WellPet LLC*, 526 F. Supp. 3d 652, 679 (N.D. Cal. 2021) (striking testimony of expert on  
 22 class certification who was not properly disclosed because it “would mean that [he] could testify to  
 23 expert opinions without having gone through any of the hurdles that other experts do.”).

24           **B. New Expert Opinion in Plaintiffs’ Demonstratives**

25           Zuffa further objects to the following portions of Plaintiffs’ Demonstratives because they  
 26 appear to contain a new expert opinion that was not previously disclosed in Ms. Herold’s expert  
 27 reports submitted with Plaintiffs’ Motion for Class Certification and Reply Brief:

- **Slide 7:**

- **Slide 8:**

Ms. Herold submitted *two* expert reports with Plaintiffs' Motion for Class Certification and Reply Brief. However, neither of these reports disclose any expert opinion that the [REDACTED]

Ms. Herold should be prohibited from providing this new opinion for the first time at the evidentiary hearing. *See, e.g., In re Wal-Mart Wage & Hour Emp. Pracs. Litig.*, 2008 WL 3179315, at \*11 (D. Nev. June 20, 2008) (granting motion to strike where expert's declaration "reflect[ed] a new analysis which was not part of his initial report"); *see also United States v. Patterson*, 230 F.3d 1168, 1172 (9th Cir. 2000) (striking supplemental declarations on reply that "address issues which should have been addressed in the opening brief").<sup>1</sup>

## II. CONCLUSION

Accordingly, Zuffa respectfully requests that the Court sustain these objections and either strike or disregard the evidence addressed herein.

Dated: May 12, 2025

Respectfully Submitted,

PAUL HASTINGS LLP

By: Susan Leader

Susan Leader  
Ali Rabbani  
Stephanie Balitz

*Attorneys for Defendant Zuffa, LLC*

<sup>1</sup> As discussed in Zuffa's Motion to Strike the Reply Expert Report of Rebecca Herold (ECF No. 129), this is not the first time Ms. Herold has improperly raised new opinions after submitting her initial Expert Report in support of Plaintiffs' Motion for Class Certification.

**CERTIFICATE OF SERVICE**

I am employed by Paul Hastings LLP in Century City, California. I am over the age of 18, and not a party to the within action. My business address is 1999 Avenue of the Stars, Twenty-Seventh Floor, Century City, CA 90067.

On May 12, 2025, I served the foregoing document(s) described as:

**DEFENDANT ZUFFA, LLC'S OBJECTIONS TO PLAINTIFFS' DISCLOSURE  
OF WITNESSES AND EXHIBITS FOR EVIDENTIARY HEARING ON MOTION  
FOR CLASS CERTIFICATION [SEALED VERSION]**

on the interested parties by personally emailing the aforementioned document(s) in PDF format to all persons appearing on the below Service List at the corresponding email addresses set forth therein.

## **SERVICE LIST**

**GUTRIDE SAFIER LLP**  
SETH A. SAFIER (*pro hac vice*)  
[seth@gutridesafier.com](mailto:seth@gutridesafier.com)  
MARIE A. MCCRARY (*pro hac vice*)  
[marie@gutridesafier.com](mailto:marie@gutridesafier.com)  
HAYLEY REYNOLDS (*pro hac vice*)  
[hayley@gutridesafier.com](mailto:hayley@gutridesafier.com)  
ANTHONY PATEK (*pro hac vice*)  
[anthony@gutridesafier.com](mailto:anthony@gutridesafier.com)  
KALI BACKER (*pro hac vice*)  
[kali@gutridesafier.com](mailto:kali@gutridesafier.com)  
100 Pine Street, Suite 1250  
San Francisco, CA 94111  
Telephone: (415) 336-6545  
Facsimile: (415) 449-6469

**JENNER & BLOCK LLP**  
Douglass Mitchell (Bar No. 3775)  
1099 New York Ave., NW, Suite 900  
Washington, DC 20001  
Telephone: (202) 639-6090  
[DMitchell@jenner.com](mailto:DMitchell@jenner.com)

Laurie Edelstein  
525 Market Street, 29th Floor  
San Francisco, California 94105  
Telephone: (628) 267-6800  
[ledelstein@jenner.com](mailto:ledelstein@jenner.com)

*Attorneys for Non-Party Meta Platforms, Inc.*

**MARKMAN LAW**  
DAVID MARKMAN (Nevada Bar. No.  
12440)  
David@Markmanlawfirm.com  
4484 S. Pecos Rd. Suite #130  
Las Vegas NV 89121  
Telephone: 702-843-5899  
Facsimile: 702-843-6010

I declare under penalty of perjury under the laws of the United States that the above is true and correct. Executed on May 12, 2025.

By: /s/ Melica S. Kajeh  
Melica S. Kajeh